

Appl. No. 10/792,045

Amdt. Dated March 6, 2006

Reply to Office action of January 9, 2006

### AMENDMENTS TO THE DRAWINGS

Following this page are 6 replacement sheets of drawings. All of the drawings have been amended to add reference numbers in typed form. Figure 6 has been redrawn to have darker lines for better reproduction. In response to the objection to Figure 5, reference number 40 has been replaced by 40'.

Attachment: Six Replacement Sheets

### REMARKS

The Office Action dated January 9, 2006 has been carefully reviewed and certain clarifying amendments have been made to the specification and claims in a sincere effort to place the above-identified application in a proper form for allowance. Such action is respectfully requested on the basis of the following discussion.

### THE DRAWINGS

The drawings have been objected to because, in figure 5, reference number 40 should be reference number 40'. An appropriate correction to figure 5 is included with replacement sheets of drawings submitted herewith. The drawings have also been objected to because they do not show every feature of the invention specified in the claims. More specifically, the examiner has pointed out that the subject matter set forth in the last two lines of claim 1 one must be shown or the features canceled from the claims. In response to this objection, the last three lines of claim 1 have been deleted.

### THE SPECIFICATION

The examiner has objected to the specification for failing to provide a proper antecedent basis of the claimed subject matter. The specification has been amended by replacing the first paragraph on page 4 with an amended paragraph which provides a proper antecedent basis for the various claim terms specified by the examiner.

## REJECTIONS UNDER 35 U.S.C. 112

The examiner has rejected claim 3 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is uncertain how the term “bucket” relates to the claim term “support portion” which appeared in the original claim 1. The original claim term “support portion” is described as number 34 in the specification as follows: “The accessory device 20 includes downwardly depending support portions 34 which each have an inner wall 36 and an outer wall 38”. What was originally intended by such claim language was that an inner wall 36 of the support portions 34 would rest against the outside wall 14 of the spa 10 to partially support the accessory device in position. Since the drawings were objected to for not adequately showing this feature and since such support is not required, such language has been removed from claim 1. The term “bucket” in claim 3 refers to a cavity in the upper surface 22’. The inner wall 36 (which refers to an outside wall of the accessory device which faces inwardly toward the spa wall 14) is one wall of a double walled container. The term “inner” refers to an orientation relative to the spa rather than to the accessory device structure itself. The actual “inside walls” of the double walled structure (now referring only to the device itself) form the structure for the “bucket” and the “outside walls” of the double walled structure can act as a support portion 34. Hopefully this explains and clarifies the meaning of the claim terms set forth in claim 3.

## REJECTIONS UNDER 35 U.S.C. 102

The examiner has rejected various combinations of claims 1 through 12 under 35 U.S.C. 102(b) on the basis of four cited references. Claims 1-3, 10 and 11 have been rejected as being anticipated by Weir, U.S. Patent 5,333,322. Claims 1-4, 6-9 and 12 have been rejected as being anticipated by Karpinski, U.S. Patent 6,474,244 and claims 1-9 have been rejected as being anticipated by Kolada, U.S Patent 5,279,007.

It must first be stated that none of the cited references even relate to accessory devices for a spa which is a unique and highly specialized type of device. It is submitted that one skilled in the art of spa fabrication or the making of accessory devices for spas would have little reason and would not look to swimming pools as a source of technological ideas for a spa as swimming pools have a far different structure than a spa. Swimming pools are large immovable objects which frequently require permanent or semi-permanent assembly often with separate flexible plastic liners and separate side wall members. Spas, on the other hand, are generally portable and are often formed from a molded rigid plastic material or fiberglass. Swimming pools are rarely, if ever, formed from such rigid molded plastic materials.

Weir and Kolanda (as does Bitvai, U.S. Patent Des. 261,028) each provide a generally U-shaped clamp member utilized to attach an accessory device (seat or bucket) over a side wall of a swimming pool or dividing wall of a sink. In each of these devices, the upper surface of the U-clamp is necessarily located higher than (and thus not coplanar with) the top surface of the pool

wall or sink wall over which the clamp is placed. In Karpinski, the entire table 42 rests and is supported (by a complex clamping and bracing system) on top of the top surface of the pool wall. Thus, the upper surface 46 is likewise located above (and not coplanar with) the top surface of the upper lip 28 of pool wall 24 (see Figs. 1 and 2).

The present invention provides an accessory device which does not rely upon a U-shaped clamp member. It requires no clamping or bracing and no screws. The present invention provides an integral one piece double walled molded device which quickly attaches and may be quickly removed from the spa with no tools or complex attachment mechanism. This allows, for example, the ice bucket accessory to be loaded with food and drinks in the home and be carried out to the spa and quickly attached to the spa. This is accomplished by placing a recess which forms a notch into a perimeter if the top surface of the spa is of a particular size and shape and by providing at least one mating flange portion of the same size and shape on the accessory device which is received by said recess. A friction fit holds the accessory device in place with the upper surface of the accessory device and at least one flange being coplanar with the top surface of the spa. Such an attachment for an accessory device for a spa is neither taught nor suggested by any of the cited references either alone or in combination.

Claim 1 has been amended to clarify that: a recess of a particular shape is formed into the perimeter of the spa which creates a notch; the accessory device is formed as a one piece integral unit molded of a plastic material; at least one flange portion is integrally formed on said accessory tray and has a shape matching the shape of said recess; the flange fits securely into said

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recess and holds said accessory tray securely onto said spa in a manner allowing easy placement and removal thereof; and the upper surface of the accessory device is coplanar with the top surface of the spa. None of these features are taught nor suggested by the art and, accordingly, claims 1-12 are now believed to be allowable.

#### OBJECTION TO CLAIM 13

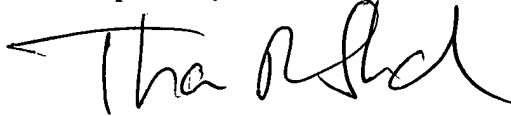
The examiner has indicated that claim 13 is objected to as being dependent on a rejected based claim, but would be allowable if written in independent form including all the limitations of the base claim and any intervening claims. Claim 13 has been rewritten in independent form and now includes all of the limitations of the base claim and all intervening claims but for the objectionable language in claim 1 identified by the examiner as not being present in the drawings. Accordingly, it is believed that claim 13 is now in an allowable form.

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### CONCLUSION

In view of the foregoing, it is respectfully submitted that claims 1-13 are now in a proper form for allowance. Such action is requested at an early date.

Respectfully submitted,

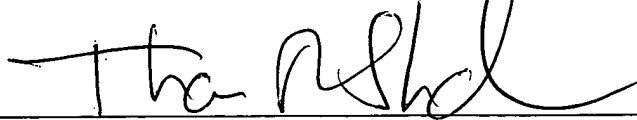


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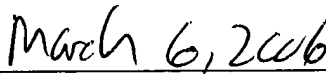
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